

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE:	Carol A. Harvey	:	No. 14-15364
	Debtor	:	Chapter 13
		:	
		:	

Carol A. Harvey	:	
Debtor/Plaintiff,	:	
	:	
Vs.	:	Adv. No.
	:	
Nationstar Mortgage LLC and	:	
U. S. Bank National Association,	:	
As Trustee for Merrill Lynch	:	
First Franklin Mortgage Loan	:	
Trust, Mortgage Loan Asset-	:	
Backed Certificates, Series 2007-A	:	
	:	
Defendants.	:	

**DEBTOR'S COMPLAINT TO DETERMINE SECURED STATUS/
AMOUNT AND VALIDITY AND PRIORITY OF SECURED CLAIM OF
NATIONSTAR MORTGAGE LLC AND U. S. BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR MERRILL LYNCH FIRST FRANKLIN MORTGAGE LOAN TRUST,
MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2007-A**

The Debtor, by and through her attorney, Everett Cook, Esquire, requests the Court, pursuant to 11 U.S.C. §§ 502 and 506 and Bankruptcy Rule 3012, to determine the amount of the allowed secured claim of NATIONSTAR MORTGAGE LLC AND U. S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR MERRILL LYNCH FIRST FRANKLIN MORTGAGE LOAN TRUST, MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2007-A and the validity and/or priority of the lien of the Defendants, with respect to the real property of the Debtor. In support of this Complaint, Debtor states as follows:

1. Debtor filed this petition under Chapter 13 of the Bankruptcy Code on July 1, 2014.
2. The Defendants are NATIONSTAR MORTGAGE LLC AND U. S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR MERRILL LYNCH FIRST FRANKLIN MORTGAGE LOAN

TRUST, MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2007-A with addresses at:

- a. Nationstar Mortgage LLC, 350 Highland Drive, Lewisville TX 75067;
 - b. Nationstar Mortgage LLC, Attn: Bankruptcy Department, P O Box 630267, Irving TX 75063; and %Weinstein, Pinson & Riley, BK Services, 2001 Western Ave., #400, Seattle, WA 98121;
 - c. U.S. Bank National Association, Stern & Eisenberg, PC, 1581 Main Street, Suite 200, Warrington PA 18976.
3. The last five digits of the loan number for the mortgage at issue is 05073. A true copy of the recorded Mortgage dated April 26, 2007 is attached hereto to allow the alleged mortgagee to identify its interest in the mortgage. See Exhibit "A".
4. The Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 1334 and 157(b) (2) (A), (K) and (O). This is a core proceeding.
5. At the time the Debtor filed the instant bankruptcy petition and at the present time Debtor is the owner of certain real estate located at 3604 Westminster Way, Nazareth PA 18064 (the "Property"), which as a value of no more than \$205,000.00. The Court entered an Order on August 18, 2014 establishing the value of the property. *See Docket No. 13.*
6. The Debtor's interest in the Property is subject to one (1) prior perfected first mortgage lien of Nationstar Mortgage LLC in the amount of \$215,617.00 as of the time of the filing of the Petition.
7. The amount of the first mortgage lien of Nationstar Mortgage LLC exceeds the value of the Property, and therefore the second mortgage of NATIONSTAR MORTGAGE LLC AND U. S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR MERRILL LYNCH FIRST

FRANKLIN MORTGAGE LOAN TRUST, MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2007-A is wholly unsecured. **In re McDonald, 205 F.3d 606 (3d Cir. 2000).**

8. Therefore, the value of the interest of NATIONSTAR MORTGAGE LLC AND U. S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR MERRILL LYNCH FIRST FRANKLIN MORTGAGE LOAN TRUST, MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2007-A on account of its alleged second mortgage lien in the Property is zero.
9. Pursuant to 11 U.S.C. §§ 506(a) and 502 and Bankruptcy Rule 3012, the allowable secured claim of NATIONSTAR MORTGAGE LLC AND U. S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR MERRILL LYNCH FIRST FRANKLIN MORTGAGE LOAN TRUST, MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2007-A 's second mortgage as against the residential real estate of Debtor is zero.
10. The claim of NATIONSTAR MORTGAGE LLC AND U. S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR MERRILL LYNCH FIRST FRANKLIN MORTGAGE LOAN TRUST, MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2007-A with respect to its second mortgage is allowable in the following amounts:
 - a. Secured claim of zero as against the real property of the Debtor, i.e. the Property, on account of its alleged second mortgage lien;
 - b. General, unsecured claim of \$54,851.70.

WHEREFORE, the Debtors request the Court to:

- a. Value the interest of NATIONSTAR MORTGAGE LLC AND U. S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR MERRILL LYNCH FIRST FRANKLIN MORTGAGE LOAN TRUST, MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2007-A with respect to its second mortgage lien at zero;

- b. Determine the allowed secured claim of NATIONSTAR MORTGAGE LLC AND U. S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR MERRILL LYNCH FIRST FRANKLIN MORTGAGE LOAN TRUST, MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2007-A 's second mortgage to be zero with respect to the Debtor's Property pursuant to 11 U.S.C. § 506(a), with the balance, \$54,851.70, allowed as a general, unsecured claim only;
- c. Order that NATIONSTAR MORTGAGE LLC AND U. S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR MERRILL LYNCH FIRST FRANKLIN MORTGAGE LOAN TRUST, MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2007-A cancel its second mortgage lien in the public records; and
- d. Grant such other relief as may be necessary and proper under the circumstances and under the law.

WHEREFORE, Debtor respectfully requests the Court grant judgment in favor of the Debtor and the relief requested above, and issue its order in the form annexed hereto, and grant such other and further relief as is just under the circumstances.

Dated: 9/5/14

Respectfully Submitted,
/s/ Everett Cook, Esquire
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